

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Wendy Moore,)	Criminal No. 2:13-330-RMG
)	Civil No. 2:17-226-RMG
Petitioner,)	
)	
v.)	ORDER
)	
United States of America,)	
)	
Respondent.)	
)	

This matter is before the Court on Petitioner’s motion for leave to appeal *in forma pauperis* (Dkt. No. 600). Petitioner currently is serving a 180-month sentence for attempted murder for hire and related convictions. On June 7, 2017, the Court denied Petitioner’s motion for relief under 28 U.S.C. § 2255 and denied a certificate of appealability. (Dkt. No. 597.) On June 30, 2017, Petitioner filed the present motion.

Rule 3(c) of the Federal Rules of Appellate Procedure requires that a “notice of appeal must specify the party or parties taking the appeal . . . ; designate the judgment, order or part thereof being appealed; and name the court to which the appeal is taken.” The notice also “must specifically indicate the litigant’s intent to seek appellate review . . . [to] ensure that the filing provides sufficient notice to other parties and the courts.” *Smith v. Barry*, 502 U.S. 244, 248 (1992). An appeal “must not be dismissed for informality of form or title” Fed. R. App. P. 3(c)(4). Courts “liberally construe the requirements of Rule 3,” *Smith*, 502 U.S. at 248, especially with regard to *pro se* filings, *United States v. Garcia*, 65 F.3d 17, 19 (4th Cir. 1995).

Petitioner’s motion for leave to proceed *in forma pauperis* on appeal clearly identifies the party taking the appeal (Wendy Moore) and the name of the court to which the appeal is taken (“the Fourth Circuit Court of [A]ppeals”). (Dkt. No. 600.) Although the motion does not explicitly

name the order being appealed, it states that the issue on appeal is ineffective assistance of counsel and it asserts this Court erred in denying an evidentiary hearing on that issue. (*Id.*) There is no doubt Petitioner means to appeal the Court's denial of her § 2255 motion. The Court therefore construes the motion for leave to appeal *in forma pauperis* as a notice of appeal. *Cf. Clark v. Cartledge*, 829 F.3d 303 (4th Cir. 2016).

Accordingly, the Court directs the Clerk to docket Petitioner's motion for leave to appeal *in forma pauperis* (Dkt. No. 600) as a notice of appeal of the Court's order denying Petitioner's motion for relief under § 2255 (Dkt. No. 597) and to transmit it to the United States Court of Appeals for the Fourth Circuit.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

July 10, 2017
Charleston, South Carolina